

2023-327-SP, 28594 104 Avenue, Request for Reconsideration of Soil Permit Refusal

Recommendation:

THAT Council receive the report titled “2023-327-SP, 28594 104 Avenue, Request for Reconsideration of Soil Permit Refusal” dated May 13, 2025, for information

Report Purpose and Summary Statement:

The purpose of this report is to provide Council with the rationale and background that led to the Director of Planning and Building’s refusal to issue the subject Soil Permit, and additional information for Council’s consideration.

Strategic Alignment:

Liveable Community; Climate Leadership & Environmental Stewardship;

Applicable Legislation/ Bylaw/Policy:

Maple Ridge Soil Deposit Regulation Bylaw No. 7412-2017

To: Mayor and Council

File number: 2023-327-SP

BACKGROUND:

The original parent property was acquired by the previous owner and an application to subdivide the parcel into 4 lots was submitted to the City in June 2009. Due to the unique heritage value of the property, the City requested an Arborist Report to identify and assess the various unique trees as well as a report that was entitled "Miller Property: 28594 – 104 Ave, Conservation and Feasibility Study" (the "Study").

As a condition of the subdivision approval, Lots 1-4 were encumbered by a conservation covenant and a Heritage Revitalization Agreement (HRA), and are now protected heritage designated properties (Attachments A and B). In addition, Lot 2 has is the location of the original residence known as the "Miller Residence" and some additional outbuildings, which have been registered as Heritage Buildings.

On June 14, 2023, the City's Environmental Compliance staff responded to neighbour complaints about trucks depositing fill on Lot 2. During the initial investigation, staff determined that the current owner's contractor, Cancon Construction Limited, was depositing soil without the benefit of an approved Soil Deposition Permit from the City. As a result, a Stop Work Order was posted on site. The owner subsequently retained an agent to submit a retroactive Soil Permit application. After processing, by way of a letter dated February 27, 2025 staff advised the applicant that the application was denied (Attachment C).

ANALYSIS:

Discussion:

The property is protected by *Heritage Revitalization Agreement Bylaw No. 6709-2009*. As part of the HRA, the property received heritage designation, per Section 611 of the *Local Government Act*, and a Heritage Landscape Protective Covenant, dated October 15, 2010, is also registered on the property.

Schedule B, Stage B of the HRA identifies the heritage value and character-defining elements associated with the designation through a Statement of Significance. The Statement of Significance notes that the siting, aspect and landscape associated with the buildings reflect the early settlement and rural lifestyle of the Ruskin community. Specifically, the HRA states: "The Miller residence portion of the site is important for the way in which it demonstrates the layout and relationship of the house to the orchard, garden, and other plantings and with the outbuildings. The site is also important for the layers of vegetation, and the aesthetic qualities of the viewsapes."

The significant layers of vegetation of landscaping features are further specified through the character defining elements, which identify the following:

- The grounds appearing to be a clearing with a backdrop of a conifer forest downslope;
- Still visible patterns of the original survey and subsequent property subdivision and use;
- Internal views to the adjacent orchard to the west and the forest to the south and east;
- Remnants of the original fruit and nut orchards, ornamental shade trees with rock-walled gardens, domestic ornamental planting along the driveway, roadway and against the house, vegetable garden, and rows of berry bushes oriented north/south; and
- Early and continued use as a residence set amongst a rural and agricultural landscape.

Planning staff advised the owner that to fully understand and consider the impact of the fill on the protected heritage resources and character defining elements of the property, a Heritage Impact Assessment would need to be completed by a Heritage Professional working with an Arborist and submitted to the City for consideration.

Three options were considered:

1. Retroactively approve a Soil Permit for the fill placed and require the addition of topsoil to finish the impacted area.
2. Approve the Soil Permit for the full proposal, including previously placed material to finish the project.
3. Refuse the Soil Permit on the rationale that there may be an impact on the heritage value of the property as specified in the HRA and its heritage designation.

Planning staff also advised the owner that under Section 611 of the *Local Government Act*, a Heritage Alteration Permit is required should any alteration have a negative impact on the property's heritage value. Therefore, a Heritage Impact Assessment submission would be also required as part of the Heritage Alteration Permit Application.

These assessments are required to consider and comment on the work that has been undertaken/will be undertaken in the future and how it may impact the property's identified heritage value. If there is a perceived negative impact, the Heritage Impact Assessment must recommend mitigation options, which could become conditions of the Heritage Alteration Permit if it is to be issued. These assessments are typically done by a Heritage Professional who is a member of the Canadian Association of Heritage Professionals. The City's *Heritage Procedures Bylaw 6951-2012* permits the Director of Planning and Building to require a Heritage Impact Assessment if it is deemed necessary.

Given that the historical orchard, garden, other plantings, vegetation, and the aesthetic qualities of the viewsapes associated with the property were all identified in the HRA and heritage designation, the placement of the fill impacted these elements. A Heritage Impact Assessment

was not provided by the owner in support of the application, therefore staff considered the application and its impacts in the context of the information available and rendered the decision to decline.

Project Description:

The current application is to consider the 950 cubic metres (approximately 140 truckloads) of fill material that was deposited on the subject property, with a proposal from the owner for another 3,000 cubic metres (430 truckloads) of fill.

The application's stated purpose for the fill amount is to establish a dedicated flat area on the property for relocating the existing apicultural operation (i.e., the keeping of beehives) away from the dwelling to reduce conflict between the bees and the occupants of the home. The applicant advised that the previous undulating nature of the property where the fill was placed was not suitable for the new hive boxes, and the intent of the fill was to improve the separation of the residential and farm uses on the property while maintaining a beneficial environment for the bees, and is needed to support vehicular traffic in order to move the bee hives on and off site.

Staff have confirmed that the hives are now in place and are currently operated by a commercial beekeeper, and the property currently has a farm classification, but is not within the Agricultural Land Reserve.

Apiculture is the management and study of honeybees. Beekeeping plays a key role in the production of most fruit and forage crops. In BC, the activity is governed by the following regulations:

- *Animal Health Act,*
- *Bee Regulation,* and the
- *Reportable and Notifiable Disease Regulation.*

Staff requested comments from the BC Provincial Apiculturist in consideration of the Soil Permit application. Mr. Paul van Westendorp, Apiculture Specialist, did not note that the fill deposition was problematic for the beekeeping, however he stated: "Based on the heavily wooded area, it is not the best location for keeping bees unless placed there for the winter season only". Staff have confirmed that this location is only intended to be used for overwintering.

Public Engagement:

In accordance with the City's Soil Bylaw, the volume of the fill proposed by the applicant triggers a mailout to the residents within an area of 500 m of the subject property. The owners of approximately 30 addresses were notified of the application. City staff received two emails and one phone call response to the mailout. All three were generally not in support of the fill proposal, citing the following points;

- Unattached trailers left on the road – impacting traffic.
- Dirt and debris left on the road.
- Potential impacts on their wells.
- Possible environmental contamination from unknown content of the fill.
- Potential impacts, wear and tear or damage to the roadway.

Applicable Legislation/Bylaw/Policy:

The *Maple Ridge Soil Deposit Regulation Bylaw No. 7412–2017* regulates all soil deposition within the City.

Under the current regulations, the applicant must provide a variety of technical information to support the application. Typical documents for applications of over 350 cubic metres of fill include:

- A site plan;
- A Survey showing the contours and grading; and
- An Arborist Report showing any potential impacts to onsite trees and any recommendations to mitigate where possible.

In this specific case where the fill depth exceeded 1 m in several locations, City staff can require a report prepared by a Geotechnical Engineer to ensure the geotechnical stability of the fill on the site, as well as to certify that the fill placement does not prevent any use permitted under the *Maple Ridge Zoning Bylaw No. 7600-2019*, and that adjoining properties will not be subject to increased flooding caused directly by stormwater runoff and/or changes to drainage from the soil deposit site.

The applicant has not provided a report from a Geotechnical Engineer to date. Should Council overturn the refusal and authorize the soil deposition, staff recommend that the report be required.

OPTIONS & IMPLICATIONS:

The owner has filed a reconsideration request for Council's consideration requesting that the City issue a permit to allow them to finish filling the site as proposed. The owner has revised the scope and volume of the original application to permit the 950 cubic metres of materials already placed, as well as and a limited topsoil volume approximating 700 cubic metres (approximately 100 truckloads). This amount of topsoil would be required to enhance the existing fill material to improve plant growth outcomes.

Options for Council's Consideration:

1. Uphold the Director of Planning and Building's decision to refuse the Soil Permit for the reasons outlined in this report. This option would require the applicant to remove the fill material and restore the area to its previous condition. The applicant would be required to submit a restoration plan to the City to review and accept prior to implementing the fill removal. The City would require that the applicant obtain a Highway Use Permit through the City's Engineering department to remedy the nuisance issues around traffic and road debris. However, it is noted that the soil removal must be completed with care as it could cause more impact to the heritage value of the property.
2. Direct the Director of Planning and Building to issue a Soil Permit for the amended application to include the retroactive authorization for the 950 cubic metres placed on the property, as well as 700 cubic metres of topsoil to allow the area to be finished for a more usable and stable grassed area. The current fill materials have a high clay content and recent inspections show the area is still quite barren and without vegetation growth.

Should Council choose option 2, the applicant would be required to:

- a) commission and provide a Heritage Impact Assessment, prepared by a Heritage Professional, recommending mitigation options, to ensure that any alteration does not impact the remaining heritage value of the property;
- b) apply for and obtain a Highway Use Permit;
- c) provide technical reports to certify that the fill placed will not prevent any use permitted under *Maple Ridge Zoning Bylaw No. 7600-2019*; and
- d) commission and provide the City with a report, prepared by a Geotechnical Engineer, confirming the geotechnical stability of the fill on the site and demonstrating that the adjoining properties will not be subject to increased flooding caused by stormwater runoff from the soil deposit site.

3. Require that the applicant commission and provide a Heritage Impact Assessment, prepared by a Heritage Professional, for consideration prior to Council making a decision.

CONCLUSION:

Given the potential impacts to the natural and built heritage value of the property, which is the subject of a Heritage Revitalization Agreement and is protected by a heritage designation, the Director of Planning and Building refused the Soil Permit application. The owner has requested that Council reconsider the application, and the information contained in this report is provided to Council for information. This report also provides Council with two options to consider to either uphold or overturn staff's decision on this matter.

Should Council choose Option 1, the Director of Planning and Building's decision will be upheld and the Soil Permit will be refused. Staff will work with the owner to remove the unauthorized material and restore the site to a pre-deposition state.

Should Council choose Option 2, the Director of Planning and Development will be directed to issue a Soil Fill Permit, subject to the permit's approval requirements.

"Thomas Loo"

Prepared by: Thomas Loo,
Environmental Compliance Technician

Attachments:

- (A) Location Map
- (B) Aerial Photo
- (C) Soil Permit Decision Letter

Report Approval Details

Document Title:	2023-327-SP, 28594 104 Avenue, Request for Reconsideration.docx
Attachments:	<ul style="list-style-type: none">- Attachment A - Location Map .pdf- Attachment B - Aerial Photo.pdf- Attachment C - Soil Permit Decision Letter.pdf
Final Approval Date:	May 8, 2025

This report and all of its attachments were approved and signed as outlined below:

David Purcell-Chung, Manager of Development and Environmental Services

Hasib Nadvi, Deputy Director of Planning and Building

James Stiver, Director of Planning and Building

Carolyn Mushata, Director of Legislative Services and Corporate Officer

Scott Hartman, Chief Administrative Officer